

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

_____)	
UNITED STATES OF AMERICA,)	
)	
vs.)	CR No. 98-02-JJM
)	
WILLIAM SEQUEIRA,)	
Defendant)	
_____)	

**ORDER ON MOTION FOR INDICATIVE RULING
REGARDING PETITIONER'S MOTION UNDER RULE 60(b)**

This matter came before the Court on Petitioner's Motion to Vacate and Correct his Sentence Pursuant to 28 U.S.C. § 2255 and *Johnson v. United States*, 135 S.Ct. 2551, 2567 (2015). ECF No. 67. This Court entered a text order denying that relief on December 5, 2016.

Petitioner filed an appeal of this Court's order on January 24, 2017, thereby divesting this Court of jurisdiction. ECF No. 74.

On March 1, 2017, Petitioner filed a Rule 60(b) motion for relief from this Court's order denying relief. ECF No. 79.

Following the procedure outlined by the First Circuit Court of Appeals, this Court retained only limited jurisdiction to consider the Rule 60(b) motion. The Court could consider the motion and deny it, or consider the motion and indicate its intention to grant the motion, after which point petitioner must move the Court of Appeals to remand the matter to the District Court for further proceedings on the

Motion. *Puerto Rico v. S.S. Zoe Colocotroni*, 601 F.2d 39, 42 (1st Cir. 1979).

This Court has considered the parties' filings on the rule 60(b) motion, including the Petitioner's 60(b) motion and memorandum, Petitioner's first, second, and third supplemental memoranda (ECF Nos. 81, 84, 86), and the government's reply and first, second, and third supplemental replies (ECF Nos. 80, 82, 85, 87).

Having considered the parties' arguments, this Court intends to GRANT Petitioner's Motion for Reconsideration, GRANT Petitioner's Petition under 28 U.S.C. § 2255, VACATE Petitioner's sentence, and proceed to a re-sentencing.

IT IS SO ORDERED.

/s/ John J. McConnell, Jr.

John J. McConnell, Jr.
United States District Judge

November 20, 2017